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Chairman: Mr. Bennouna ..... (Morocco)

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The meeting was called to order at 3.35 p.m.

Agenda item 146: International Criminal Court (*continued*) (A/C.6/59/L.25 and Corr.1)

1. **Mr. Peersman** (Netherlands), introducing draft resolution A/C.6/59/L.25 and Corr.1 on behalf of the Bureau, said that a further revision should be made to corrigendum 1: the last reference to the Relationship Agreement in the fourth preambular paragraph should be accompanied by a footnote, numbered 4, reading "Articles 10 and 13 of the Relationship Agreement".

2. **Mr. Rosand** (United States of America), speaking in explanation of position, said that his delegation could not join the consensus on the draft resolution. Its opposition to the Rome Statute remained unchanged. First, it remained deeply concerned about the danger of politically motivated prosecutions: nothing about the structure of the International Criminal Court provided any guarantee against that eventuality. Secondly, the Court was flawed in the related areas of jurisdiction and due process. Its authority was not constrained by adequate checks or balances. For example, it had a self-initiating prosecutor answerable to no State or institution other than two judges on a three-judge panel of the Court itself. Final judgements were exempt from any clemency review by a political authority. His delegation could not accept the Court's jurisdiction. Moreover, despite the Security Council's role under the Charter of the United Nations, the Rome Statute suggested that the Assembly of States Parties was competent to define instances of aggression.

3. He recalled that the Court was an independent body and not a part of the United Nations system. The Relationship Agreement approved under General Assembly resolution 58/318 did not bind States not parties to the Rome Statute to the financial implications of the Court's activities and required full reimbursement of all expenses incurred by the United Nations.

4. The fact that his delegation felt unable to join the Court stemmed from its commitment to the rule of law, and specifically to international accountability for war crimes, genocide and crimes against humanity. It was regrettable that the Security Council had failed to renew a resolution requesting the Court not to commence or proceed with the investigation or prosecution of personnel from non-parties to the Rome Statute in respect of acts or omissions connected with their participation in United Nations missions. The absence of successors to Security Council resolutions 1422 (2002) and 1487 (2003) reflected the demise of a compromise that had respected the strongly held views of those who supported the Court and the equally strongly held views of those who did not.

5. In accordance with article 98 of the Rome Statute, his Government had signed agreements with 96 nations, to date, to ensure that United States citizens and military personnel were not surrendered to the Court. There was a growing consensus that such agreements were an important mechanism to protect States not parties to the Statute from the Court's claims of jurisdiction. Indeed, as many nations — 97, including his own — had signed agreements under article 98 as had taken the final step to join the Court. His delegation therefore asked that its decision not to be a party to the Statute should be respected. It was grateful to the European Union for its flexibility in ensuring that the modus vivendi that had been reached could continue.

6. *Draft resolution A/C.6/59/L.25 and Corr.1, as orally revised, was adopted.*

7. **Mr. Adsett** (Canada), speaking in explanation of position, said that the adoption of the draft resolution emphasized the importance attached by the international community to the International Criminal Court. His delegation was, however, deeply disturbed by what appeared to be continuing efforts to undermine the Court's legitimate and necessary role in the international legal system. The right of any State not to become a party to the Rome Statute must be respected, but States non-parties should also be respectful of the rights of States that had chosen to become parties to the Statute, in particular their right to nurture the Court without hindrance and ensure that it become the responsible and effective judicial mechanism it was described to be and indeed had already became. Even if some delegations had misgivings about the Statute, all were agreed on the importance of ending the culture of impunity that had been allowed to flourish in international law for too long. Efforts to undermine the Court gave encouragement to the forces of impunity and were therefore inimical to the interests of the whole international community.

The meeting was suspended from 3.50 p.m. to 4.35 p.m.

Agenda item 150: International convention against the reproductive cloning of human beings (*continued*) (A/C.6/59/L.2, 8 and 26)

8. **The Chairman** announced that the Comoros, Guyana and Norway had joined the sponsors of draft resolution A/C.6/59/L.2, while Angola, Chile and Malawi had withdrawn as sponsors of the same draft resolution. Noting that draft resolutions A/C.6/59/L.2 and A/C.6/59/L.8 had been introduced at the eleventh meeting of the Committee, he invited the representative of Italy to introduce draft resolution A/C.6/59/L.26.

9. **Mr. Nesi** (Italy), introducing draft resolution A/C.6/59/L.26, said that the draft United Nations Declaration on Human Cloning, annexed to the draft resolution, had been the subject of intensive consultations and the text that had emerged enjoyed broad support. He therefore hoped that it could soon be finalized.

10. **The Chairman** said that it was unacceptable for the international community to be divided on a topic of concern to all. Following informal consultations with interested delegations, therefore, he suggested that the Committee should establish a working group that would finalize the text of the declaration, on the basis of draft resolution A/C.6/59/L.26 and, after holding three meetings early in 2005, would report to the Committee during the current session.

11. **Mr. Mikulka** (Secretary of the Committee) said that, since the Committee would be unable to complete its work as scheduled, it intended to meet in February 2005, preferably in lieu of the meeting of the Ad Hoc Committee on an International Convention against the Reproductive Human Cloning of Human Beings, which had already been included in the revised draft calendar of conferences and meetings for 2005. The meetings, to be held on 14, 15 and 18 February 2005, would comprise five meetings of the working group and one of the Committee. All the meetings would require simultaneous interpretation in all six official languages. The meeting of the Committee would require summary records, while the documentary requirements for the working group would be 20 pages of pre-session, 16 pages of in-session and 10 pages of post-session documentation to be issued in all six languages. The five meetings of the working group would have no financial implications for the regular budget, but conference servicing requirements for the meeting of the Committee on 18 February 2005 were estimated at US$ 37,500, at 2004-2005 rates.

12. **The Chairman** read out the following proposal:

> "The Sixth Committee establishes a Working Group to finalize the text of a United Nations declaration on human cloning, on the basis of draft resolution A/C.6/59/L.26, and to report to the Sixth Committee during the current session. The Working Group shall meet on 14, 15 and 18 February 2005. The Sixth Committee will meet in the afternoon of 18 February to consider and take action on the report of the Working Group.
>
> "The Working Group shall be open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency,
>
> "The Chairman of the Sixth Committee shall be the Chairman of the Working Group and members of the Bureau of the Sixth Committee shall serve as Friends of the Chairman."

13. *The proposal was adopted.*

Agenda item 148: Measures to eliminate international terrorism (*continued*)

14. **Mr. Lobach** (Russian Federation) said that he wished to inform the Committee of progress in the intensive informal consultations being held on international terrorism, and specifically on the draft convention on the suppression of acts of nuclear terrorism, with a view to overcoming the last remaining obstacles to agreement on a consensus text before the end of the session. Such a text was likely to be forthcoming over the next few days. A decision would then have to be reached on how best to proceed. His delegation would hold consultations with all interested delegations on whether the draft convention could be sent direct to the General Assembly or whether it should first be considered by the Committee.

15. **The Chairman** said that, since the Committee had concluded its consideration of the agenda item, the proposal by the Russian Federation should be considered at the appropriate level in accordance with the rules of procedure of the General Assembly.

16. After an exchange of courtesies, in which **Mr. Castellón Duarte** (Nicaragua), **Mr. Fanti** (Gambia),

Mr. Sinaga (Indonesia), **Mr. Leon Romeiro** (Brazil), **Ms. Tuğral** (Turkey), and **Ms. McIver** (New Zealand), spoke on behalf of the regional groups of States, **the Chairman** said that the Committee would take up the provisional programme of work of the Sixth Committee for the sixtieth session when it resumed its work in February 2005.

The meeting rose at 5.10 p.m.